

## R430-90-11 and R430-50-11: SUPERVISION AND RATIOS

### Purpose

This section provides rules and information about supervision of the children in care and the number of required caregivers.

### General Information

A child in care counts in both ratios and group size. All supervision and ratio rules apply to owners and employees' children under the age of 4.

Supervision of children is basic to the prevention of harm. Parents have an expectation that their children will be supervised when in the care of the Licensee/Certificate Holder. To be available for supervision as well as rescue in an emergency, a caregiver must be able to see and hear the children. Caregivers should regularly assess the environment to see how their ability to see and hear children during activities might be improved. Many instances have been reported in which a child was hidden when the group was moving to another location, or a child wandered off when a door was open. Regular counting of children can alert the caregiver to a missing child. *CFOC, 3<sup>rd</sup> Ed. pgs. 64-66 Standard 2.2.0.1*

Following are examples of activities the Licensee/Certificate Holder or second or substitute caregiver **may not** engage in at any time while children are in care:

- taking a shower or bath.
- napping, including when the children are napping.

The purpose of required caregiver to child ratios is to ensure that there are enough caregivers to adequately supervise children, ensure children's safety, and meet children's needs. Low caregiver to child ratios are most critical for infants and toddlers. Infant development and caregiving quality both improve when groups sizes and caregiver to child ratios are smaller. For 3- and 4-year-old children, the size of the group is even more important than ratios. Recommended ratios and group sizes for 3- and 4-year-olds allow these children to have the needed adult support and guidance while encouraging independent, self-initiated play and other activities. *CFOC, 3<sup>rd</sup> Ed. pgs. 4-5 Standard 1.1.1.2*

It is also important for caregiver to child ratios to be sufficiently low to keep caregiver stress below levels that could result in anger with children. Caring for too many children increases the possibility of stress for caregivers, and may result in loss of self-control. *CFOC, 3<sup>rd</sup> Ed. pg. 3 Standard 1.1.1.1*

The American Academy of Pediatrics and the American Public Health Association recommend the following maximum caregiver to child ratios and group sizes. 1:6 if all children are over the age of two. 1:4 with one child under age two. If the provider has two children under the age of two, then no children under the age of two. *CFOC, 3<sup>rd</sup> Ed. pg. 3 Standard 1.1.1.1*

### Licensed Family 90-11:

- (1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:
- (a) awareness of and responsibility for each child in care, including being near enough to intervene if needed; and

### Residential Certificate 50-11:

- (1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for each child in care, including being near enough to intervene if needed; and

### **Enforcement**

#### **Always Level 1 Noncompliance.**

When indoors with the children, the Licensee/Certificate Holder will be considered in compliance if:

- he/she or a second or substitute caregiver is on the same floor of the house as the children
- can hear the children (including with an audio monitor),
- and visually checks on them as needed.

An area of a home is considered a separate “floor” or “level” if it is 10 stairs or more to the area.

School age children only may play on a different floor of the home than the Licensee/Certificate Holder or a second or substitute caregiver is on, if the Licensee/Certificate Holder or a second or substitute caregiver can hear the children (including with an audio monitor) and visually check on them as needed.

While providers can allow school age children to play outdoors while they are indoors, they cannot allow school age children to be indoors while they are outdoors with younger children.

When indoors with the children, the Licensee/Certificate Holder or a second or substitute caregiver may temporarily (5 minutes or less) be on a different floor or level of the home from the children, and/or not within hearing distance of the children, for activities such as:

- bathroom breaks
- checking on sleeping children
- bringing prepared food from the kitchen to the eating area
- changing diapers
- first-aid application
- necessary child-related clean-ups
- installing children's car seats in vehicles

Licensee/Certificate Holders or second or substitute caregivers will be in compliance if they are in the same room with non-walking infants and toddlers or children with special needs who are not in age-appropriate pieces of equipment.

During nap-time sleeping children may be on a different floor or level of the home from Licensees/Certificate Holders or second or substitute caregivers if:

- The Licensee/Certificate Holder or second or substitute caregiver can hear the sleeping children (either by being close enough to the children, or by using an audio monitor), and
- The Licensee/Certificate Holder or second or substitute caregiver visually checks on the sleeping children age 1 and older as needed, and monitors sleeping infants as required in 1(c) below.

#### **Licensed Family 90-11:**

(1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(b) ensuring that there is a provider present inside the home when a child in care is inside the home, and there is a provider present in the outdoor play area when a child in care is outdoors, except as allowed in subsection (2) below for school age children; and

#### **Residential Certificate 50-11:**

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(b) ensuring that there is a provider present inside the home when a child in care is inside the home, and there is a provider present in the outdoor play area when a child in care is outdoors, except as allowed in subsection (2) below for school age children; and

### **Enforcement**

#### **Always Level 1 Noncompliance.**

When the children are indoors, the caregiver may temporarily go outside, to address the needs of a child. Meeting the needs of a child includes:

- removing snow from an outdoor entryway or exit,
- properly disposing of used diapers,
- and/or removing animal excrement or toadstools from the outdoor play area.

A caregiver may also go outside very briefly while children are indoors to get children off a bus or bring children to a bus, or to set up temporary fences to protect children from dangers during outdoor play time.

When outside, children age three or older may be sent indoors to use the bathroom without the caregiver, but only one child at a time may be sent.

If the outdoor play area is completely fenced, Licensees/Certificate Holders will not be considered out of compliance with this rule if the children are outdoors and the caregiver very briefly goes indoors for the following reasons only:

1. to help a child use the bathroom when the child is young enough that they need help in the bathroom.
2. to administer first aid to an injured child.

The exception to this is when there are two caregivers and children are in the outdoor play area, one caregiver must be in the outdoor play area with the children.

### **Licensed Family 90-11:**

(1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(c) monitoring of each sleeping infant in one of the following ways:

- (i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;
- (ii) by in person observation of each sleeping infant at least once every 15 minutes; or
- (iii) by using a Department-approved infant sleep monitoring device.

### **Residential Certificate 50-11:**

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(c) monitoring of each sleeping infant in one of the following ways:

- (i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider;
- (ii) by in person observation of each sleeping infant at least once every 15 minutes; or
- (iii) by using a Department-approved infant sleep monitoring device.

### **Enforcement**

#### **Always Level 1 Noncompliance.**

Department approved infant sleep monitoring devices are those that have a movement sensor that detects and sounds an alarm when an infant stops breathing.

### **Licensed Family 90-11 and Residential Certificate 50-11:**

- (2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:
- (a) a provider can hear the children playing outdoors; and
  - (b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

#### Rationale / Explanation

Children like to test their skills and abilities. This is particularly true in outdoor play with playground equipment. Even if the highest safety standards for playground layout, equipment, and surfacing are met, serious injuries can still happen if children are left unsupervised. *CFOC, 3<sup>rd</sup> Ed. pgs. 64-66 Standard 2.2.0.1*

#### Enforcement

##### **Always Level 1 Noncompliance.**

Actively supervising children means the caregivers' attention is focused on the children at all times, and not on personal interests (such as visiting with other caregivers, talking on a cell phone, text messaging, reading, **lesson planning and preparation**, etc.) or non-caregiving duties. Providers also need to maintain awareness of the entire group even when interacting with small groups or individual children and position themselves so that all children playing on the playground are supervised.

For a child to be considered school age, he/she must be at least five years old.

When outside, children age three or older may be sent indoors to use the bathroom without the caregiver, but only one child at a time may be sent.

If the outdoor play area is completely fenced, Licensees/Certificate Holders will not be considered out of compliance with this rule if the children are outdoors and the caregiver very briefly goes indoors for the following reasons only:

- 1. to help a child use the bathroom when the child is young enough that they need help in the bathroom.
- 2. to administer first aid to an injured child.

#### Licensed Family 90-11:

- (3) The licensee may permit a child to participate in supervised out of the home activities without the licensee if:
- (a) the licensee has prior written permission from the child's parent for the child's participation; and
  - (b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

#### Residential Certificate 50-11:

- (3) The certificate holder may permit a child to participate in supervised out of the home activities without the certificate holder if:
- (a) the certificate holder has prior written permission from the child's parent for the child's participation; and
  - (b) the certificate holder has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

#### Rationale / Explanation

Supervision of children is basic to the prevention of harm. Parents have an expectation that their children will be supervised when in the care, and that the Licensee/Certificate Holder will not allow their child to go off site without the parent's knowledge and consent. *CFOC, 3<sup>rd</sup> Ed. pgs. 64-66 Standard 2.2.0.1*

## **Enforcement**

### **Always Level 3 Noncompliance.**

Clearly assigned means that it is in writing. A provider can have written permission from the parent or an authorized person can sign the child in or out of the facility.

If the parent gives written permission for a child to go with a person under 18, then the parent is the responsible adult making the decision. The provider cannot make arrangements for a child in care to be released to anyone under 18.

A child may walk to school or other activity without the caregiver as long as the parent has given specific written permission to the caregiver.

Examples of supervised out of the home activities include music or dance lessons and playing at a friend's house.

When a parent writes a note that releases the provider from any responsibility for the child during the time they are playing outside (off the premises) with neighbor children, then the child would not be considered in care and this rule would not apply for that child.

### **Licensed Family 90-11:**

- (4) The maximum allowed capacity for a licensed family child care facility is 16 children, including providers' own children under age four.
- (5) The licensee shall maintain a provider to child ratio of one provider for up to eight children in care, and two providers for nine to sixteen children in care.
  - (a) Children in care include the providers' own children under the age of four.
  - (b) Providers who are included in the provider to child ratio must meet all of the requirements of this rule.
- (6) There shall be no more than four children under the age of two in care with two providers; and no more than two children under the age of two in care with one provider, except that if there are six or fewer children in care, there may be up to three children under the age of two in care.

### **Residential Certificate 50-11:**

- (4) The maximum allowed number of children in care at any one time is eight children, including no more than two children under the age of two. The number of children in care includes the providers' own children under the age of four.

## **Rationale / Explanation**

The purpose of this rule is to ensure children's safety, especially in the event of a fire or other emergency evacuation. The National Fire Protection Association in its life safety code recommends that in large family child care homes two staff care for up to 12 children only. *CFOC, 3<sup>rd</sup> Ed. pgs. 4-5 Standard 1.1.1.2*

## **Enforcement:**

### **Level 1 Noncompliance if:**

- one caregiver is over ratio by any amount, and there are more than 3 children under age 2 in care.
- one caregiver is over ratio by 5 or more children, and there are not more than 2 children under age 2 in care.
- one caregiver is not over capacity, but has 4 or more children under the age of 2 in care.
- two caregivers are over ratio by 9 or more children, and there are not more than 4 children under age 2 in care.
- two caregivers are over ratio by any amount, and have more than 4 children under age 2 in care.
- two caregivers are not over capacity, but have have 8 or more children under the age of 2 in care.

**Level 3 Noncompliance if:**

- two caregivers are over ratio by up to 8 children, and there are not more than 4 children under age 2 in care.
- a Licensee is not over capacity, but has 3 children under the age of 2 in care and 4 or 5 children over the age of 2 in care.
- a Certificate Holder is not over capacity, but has 3 children under the age of 2 in care.
- one caregiver is over ratio by less than 5 children and there are not more than 2 children under age 2 in care.
- two caregivers are not over ratio and/or capacity, but have 5-7 children under the age of 2 in care.

Statute defines a child in care as a person who is under the age of 13, or under the age of 18, when the person has a disability. Therefore, a 25-year-old handicapped adult in care would not count in ratios or capacity.

For circumstances beyond the provider's control, ratios may be temporarily exceeded for up to 45 minutes. Examples of circumstances beyond provider's control include:

- Caregivers not arriving at their scheduled time.
- Children arriving earlier or departing later than their normal time without notification.

If licensing staff arrive during the time ratios are out of compliance, the Licensing Specialist will:

- Wait for 45 minutes for the required caregivers to arrive.
- If the caregivers arrives within 45 minutes, a finding will not be issued but two Focus inspections will be conducted to confirm it was an unusual circumstance.
- If the caregiver does not arrive within 45 minutes, a finding will be issued at the inspection and Follow-Up inspections will be conducted.

For second caregivers to count in the ratios, they must be in the same room/area as the children and performing caregiving duties.

When second caregivers are working for the licensee/certificate holder, their children are considered children in care.

**Licensed Family 90-11:**

(7) The total number of children in care may be further limited based on square footage, as found in Subsections R430-90-4(7) through (9).

**Residential Certificate 50-11:**

(5) The total number of children in care may be further limited based on square footage, as found in Subsection R430-50-4(5) through (7).

**Licensed Family 90-11:**

(8) The licensee shall not exceed the maximum group sizes found in Table 1 and Table 2.

**Enforcement****Level 1 Noncompliance if:**

- one caregiver is over group size by up to 3 children.
- two caregivers are over group size by up to 6 children.

**Level 3 Noncompliance otherwise.**

<b>TABLE 1</b> <b>MAXIMUM GROUP SIZE WITH 1 CAREGIVER</b>		
<b># of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours</b>	<b>Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4</b>	<b>Total # of All Children Through Age 12 Present in the Home During Child Care Hours</b>
0 - 4	8 children	12
5	7 children	12
6	6 children	12
7	5 children	12
8	4 children	12
9	3 children	12
10	2 children	12
11	1 child	12

<b>TABLE 2</b> <b>MAXIMUM GROUP SIZE WITH 2 CAREGIVERS</b>		
<b># of Providers' Related Children Ages 4-12 Present in the Home During Child Care Hours</b>	<b>Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4</b>	<b>Total # of All Children Through Age 12 Present in the Home During Child Care Hours</b>
0 - 8	16 children	24
9	15 children	24
10	14 children	24
11	13 children	24
12	12 children	24
13	11 children	24
14	10 children	24
15	9 children	24
16	8 children	24
17	7 children	24
18	6 children	24
19	5 children	24
20	4 children	24
21	3 children	24
22	2 children	24
23	1 child	24